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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,784	04/23/2001	Joseph D. Wong	10012200-1	4224

7590 06/03/2004
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
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EXAMINER

WACHSMAN, HAL D

ART UNIT PAPER NUMBER

2857

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/840,784

Applicant(s)

WONG ET AL.

Examiner

Hal D Wachsman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2001.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-60 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. This application is in condition for allowance except for the following formal matters:

a) The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 52 (the second claim numbered as claim 52) – 59 have been renumbered as claims 53-60 respectively.

b) The Abstract is objected to because it is greater than 150 words and contains legal phraseology (i.e. reads like a claim "... computer system comprises: means for...."). Appropriate correction is required.

c) Figure 2 of the drawings is objected to because labeling (i.e. in words) of components 100, 125 and 126, are needed so as to facilitate an understanding of the invention from the drawings. Appropriate correction is required.

d) The use of various trademarks (see pages 6 and 7 of the specification) have been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

e) The listing of references in the specification (see pages 9 and 12) is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

f) Claims 1-60 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 1, lines 2-3, cite "each of the plurality of nodes" which it appears should be "each node of the plurality of nodes". This same type of problem also occurs in various other locations of the claims. Claim 1, lines 10-11, cite "each of the plurality of system configuration categories" which it appears should be "each system configuration category of the plurality of system configuration categories". This same type of problem also occurs in various other locations of the claims. Claim 1, line 11, cites "each of the plurality of threshold benchmarks" which it appears should be "each threshold benchmark of the plurality of threshold benchmarks". Claim 12, line 1, cites "The method of claim 11..." however claim 11 is a **system** claim. Claim 16, lines 1-2, cite "the network management entity" which lacks antecedent basis. Claim 17, line 2, cites "the providing the audit information" which it appears should be "the generating the audit information". This same type of problem also occurs in claim 29, line 2. The preamble of claim 21 refers to a computer-readable medium for providing an automated diagnostic audit for a cluster computer system however as the claim does not clearly indicate that

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the portions of logic are being executed on the computer system it is not clear how the functionality of the computer-readable medium is being realized. This same type of problem also occurs in claim 51. Also, claim 51 is directed toward a computer-readable medium with portions of logic, however after the section concerning the third portion of logic there are the steps of a method which creates ambiguity with respect to whether the claim is a product claim or a method claim and it is not clear as written if the steps are being accomplished by another portion of logic or the third portion of logic. Claim 60 cites "a fifth portion of logic" which is confusing because there was not a fourth portion of logic in claim 51 from which this claim depends. The examiner ask the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

2. The following references are cited as being art of general interest: Lennie et al. which disclose a master audit log in a distributed processing system, Lawlor et al. which disclose automatic resource group formation and maintenance in a high availability cluster configuration, Kampe et al. which disclose a component status audit in a high-

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availability computer system and Wolff which discloses clustered file management for network resources.

3. Claims 1-60 are allowable over the prior art because the prior art does not disclose or suggest: defining a threshold benchmark for each of a plurality of system configuration categories, each of the threshold benchmarks based on a predefined set of rules; associating each of a portion of a plurality of cluster computer system configuration parameters for each of a plurality of nodes of the cluster computer system with one of the plurality of system configuration categories; and generating audit information, the audit information based on a comparison of each of the portion of the plurality of system configuration parameters for each of the plurality of nodes to the threshold benchmark for the associated system configuration category.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D Wachsman whose telephone number is 571-272-2225. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hal D Wachsman
Primary Examiner
Art Unit 2857

HW
May 31, 2004